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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,934	06/30/2000	Hiroshi Tanaka	0905-0239P-SP	8457

2292 7590 06/03/2004

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EXAMINER
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TRAN, PABLO N

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 06/03/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/606,934

Applicant(s)

TANAKA, HIROSHI

Examiner

Pablo N Tran

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 8-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 03/17/04 have been fully considered but they are not persuasive.

The Applicant's stated that "the Election/Restriction is not proper". In response to the Applicant, the election/restriction has been withdrawn, See Office Action on 11/17/03.

The Applicant's stated that "the examiner has withdrew claims 15-30 from consideration". In response to the Applicant, the Newly submitted claims 15-30 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: See Office Action on 11/17/03. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

Accordingly, claims 15-30 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The Applicant's stated that "As to claim 7, Niwa does not teach a judgment means to judges whether or not the data amount of the image data to be received is not more than the amount of data which can be stored". In response to the Applicant, Niwa disclose such teaching to determine whether a storage/memory has enough free space to store the image data (abstract). Furthermore, the Applicant state that "the judgment

means in which the data is only received if there is enough storage space". In response to the Applicant, the limitation for which the Applicant relied upon is not in the claim.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Alperovich et al.* (6,317,609) in view of *Niwa* (6,538,692).

As per claims 1, 3-4, 6, and 8-14, *Alperovich et al.* disclose an image communication system in which an image processor (see fig. 3/no. 300) and a portable telephone set (fig. 3/no. 20) can establish data communication with an image processor comprising a reading command to read out the image data being issued to the image processor from the portable telephone, wherein said image processor transmitting the stored image data to said portable telephone set in response to the reading command issued from said portable telephone, and wherein said portable telephone set comprises setting means for setting a destination of transmission of the image data, receiving the image data transmitted from said image processor, and a second transmission means for transmitting the received image data to the destination of transmission set by said setting means through a communication network (col. 4/ln. 21-59).

*Alperovich et al.* do not disclosed such judging means to judge whether or not the storage has enough space to store the image data. However, such is well known in the art, as taught by *Niwa* (col. 5/ln. 63-col. 6/ln. 6-14). Therefore, it would have been obvious to one of ordinary skill in the art to provide such judging method, as taught by *Niwa*, to the communication system of *Alperovich et al.* in order to allow all desired image data to be recorded without interruption.

**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Safai (6,715,003), Shiota et al. (6,657,660), and Bandaru et al. (6,535,228) disclose method of image data processing in a communication system.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (703)308-7941. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703)305-4385.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**


**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

**PABLO N. TRAN  
PRIMARY EXAMINER**

May 26, 2004

  
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